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Attorney for Defendants Kinderhook  
Industries II, LP; Kinderhook Industries,  
LLC; and Kinderhook Capital Fund II, LP

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL MONTGOMERY,  
Plaintiff,  
vs.

WAL-MART STORES, INC.;  
KINDERHOOK INDUSTRIES II, LP;  
KINDERHOOK INDUSTRIES, LLC;  
KINDERHOOK CAPITAL FUND II,  
LP; CRESTWOOD HOLDINGS, INC.;  
BERGAN, L.L.C.; JOHN ELMBURG;  
ROBERT ELMBURG; ERIC  
ELMBURG; ROCKY FLICK; HOME  
DEPOT U.S.A., INC.; and Does 1  
through 20, inclusive,  
Defendants.

Case No. 12-CV-3057-JLS-DHB

**DECLARATION OF LOUIS  
AURELIO IN SUPPORT OF  
DEFENDANTS KINDERHOOK  
CAPITAL FUND II, L.P.,  
KINDERHOOK INDUSTRIES II,  
L.P., AND KINDERHOOK  
INDUSTRIES, LLC'S  
MOTION TO DISMISS OR, IN THE  
ALTERNATIVE, STAY**

DATE: May 2, 2013  
TIME: 1:30 p.m.  
JUDGE: Hon. Janis L. Sammartino  
CTRM: 3B

I, Louis Aurelio, hereby declare as follows:

1. I am over the age of eighteen, of sound mind, and otherwise fully competent to render this Declaration. I have personal knowledge of the matters stated herein, and they are true and correct. I make this Declaration in support of Kinderhook Capital Fund II, L.P., Kinderhook Industries II, L.P., and Kinderhook Industries, LLC's motion for dismissal from the above-captioned matter on the basis that these entities have no involvement with the product or conduct at issue in this lawsuit.

1           2.     I am Vice President of Kinderhook Industries, LLC, a New York-based  
2 private equity firm.

3           3.     Kinderhook Industries, LLC is a Delaware limited liability company with  
4 its principal place of business in New York, New York whose business is to manage  
5 investment risk through investment vehicles.

6           4.     Kinderhook Industries, LLC managed Kinderhook Capital Fund II, L.P., a  
7 limited partnership organized under the laws of Delaware with its principal place of  
8 business in New York, New York.

9           5.     The primary business of Kinderhook Capital Fund II, L.P. is as an  
10 investment vehicle.

11          6.     Kinderhook Industries II, L.P. is a limited partnership organized under the  
12 laws of Delaware with its principal place of business in New York, New York.

13          7.     The primary business of Kinderhook Industries II, L.P. is to provide  
14 management services to the companies in which Kinderhook Capital Fund II, L.P. has  
15 invested.

16          8.     Neither Kinderhook Industries, LLC, Kinderhook Industries II, L.P., nor  
17 Kinderhook Capital Fund II, L.P. designs, manufactures, tests, sells, supplies, or  
18 advertises the gasoline containers at issue in this lawsuit.

19          9.     Neither Kinderhook Industries, LLC, Kinderhook Industries II, L.P., nor  
20 Kinderhook Capital Fund II, L.P. is authorized, or has sought authorization, to do  
21 business in the State of California as a foreign corporation.

22          10.    Neither Kinderhook Industries, LLC, Kinderhook Industries II, L.P., nor  
23 Kinderhook Capital Fund II, L.P. has transacted business in the State of California in  
24 connection with the events or alleged conduct at issue in the above-captioned suit.

25          11.    Neither Kinderhook Industries, LLC, Kinderhook Industries II, L.P., nor  
26 Kinderhook Capital Fund II, L.P. has offices, registered agents, directors, officers, or  
27 employees in California, nor do they own or lease property, maintain bank accounts, or  
28 maintain an address or telephone listing in California.

1           12.     Effective September 21, 2007, Blitz Acquisition, LLC, a limited liability  
2 company organized under the laws of Delaware, acquired all of the issued and  
3 outstanding capital stock of Blitz U.S.A., Inc. from Crestwood Holdings, Inc., an  
4 Oklahoma corporation.

5           13.     Since September 21, 2007, Blitz U.S.A., Inc. has been a wholly-owned  
6 subsidiary of Blitz Acquisition, LLC; Blitz Acquisition, LLC has been a wholly-owned  
7 subsidiary of Blitz Acquisition Holdings, Inc., a corporation organized under the laws  
8 of Delaware; and Blitz Acquisition Holdings, Inc. has been a wholly-owned subsidiary  
9 of Blitz Holdings, LLC (n/k/a LAM 2011 Holdings, LLC), a limited liability company  
10 organized under the laws of Delaware. Each of these entities was separately formed.

11           14.     Since September 21, 2007, Kinderhook Capital Fund II, L.P. has owned a  
12 majority interest of LAM 2011 Holdings, LLC.

13           15.     Kinderhook Industries, LLC, Kinderhook Industries II, L.P., and  
14 Kinderhook Capital Fund II, L.P. have at all times maintained a separate and distinct  
15 existence from LAM 2011 Holdings, LLC, Blitz Acquisition Holdings, Inc., Blitz  
16 Acquisition, LLC and Blitz U.S.A., Inc.

17           16.     Kinderhook Industries, LLC, Kinderhook Industries II, L.P., and  
18 Kinderhook Capital Fund II, L.P. conduct operations separately and apart from LAM  
19 2011 Holdings, LLC, Blitz Acquisition Holdings, Inc., Blitz Acquisition, LLC and  
20 Blitz U.S.A., Inc. in separate offices. Blitz U.S.A., Inc. has its own employees.

21           17.     Kinderhook Industries, LLC, Kinderhook Industries II, L.P., and  
22 Kinderhook Capital Fund II, L.P. maintain bank accounts and keep financial records  
23 separate and apart from LAM 2011 Holdings, LLC, Blitz Acquisition Holdings, Inc.,  
24 Blitz Acquisition, LLC and Blitz U.S.A., Inc.

25           18.     Kinderhook Industries, LLC, Kinderhook Industries II, L.P., and  
26 Kinderhook Capital Fund II, L.P. have been, at all times, separate and viable  
27 companies from LAM 2011 Holdings, LLC, Blitz Acquisition Holdings, Inc., Blitz  
28 Acquisition, LLC and Blitz U.S.A., Inc. Kinderhook Industries, LLC, Kinderhook

1 Industries II, L.P., and Kinderhook Capital Fund II, L.P. pay all salaries and expenses  
2 without any reliance on LAM 2011 Holdings, LLC, Blitz Acquisition Holdings, Inc.,  
3 Blitz Acquisition, LLC and Blitz U.S.A., Inc.

4 19. Kinderhook Industries, LLC, Kinderhook Industries II, L.P., and  
5 Kinderhook Capital Fund II, L.P. do not pay any salaries or expenses for LAM 2011  
6 Holdings, LLC, Blitz Acquisition Holdings, Inc., Blitz Acquisition, LLC and Blitz  
7 U.S.A., Inc.

8 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws  
9 of the United States of America that the foregoing is true and correct. Executed this  
10 20 day of March, 2013 at New York, NY.

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13 Louis Aurelio  
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